

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**PAMELA RADIX and RON RADIX**

**PLAINTIFFS**

**V.**

**CIVIL ACTION NO.1:06CV504 LTS-RHW**

**RONALD TUBB and  
ALLSTATE INSURANCE COMPANY**

**DEFENDANTS**

**MEMORANDUM OPINION AND ORDER OF DISMISSAL WITHOUT PREJUDICE**

The Court has before it the motion of Defendant Allstate Insurance Company (Allstate) [16] to reconsider the opinion [14] and order of remand [15] entered on August 1, 2006.

Allstate has correctly brought to my attention that an order [13] granting leave to withdraw as counsel for the plaintiffs was entered by the United States Magistrate Judge on July 11, 2006. This order required that the plaintiffs notify the Court in writing, within thirty days of the date the order was entered (on or before August 11, 2006), of their intention to retain new counsel or to proceed pro se. The order of the magistrate judge explicitly notified the plaintiffs that their failure to so notify the Court might result in the dismissal of their action without prejudice for failure to prosecute. Plaintiffs have not responded to the order of the United States Magistrate Judge.

My remand order was entered on August 1, 2006, before the thirty-day period allowed by the magistrate judge's order had expired. The deadline established in the magistrate judge's order has elapsed, and an additional sixty days have now passed without any action on the part of the plaintiffs. In these circumstances, I believe the interests of justice require that I vacate my order of remand and dismiss this case without prejudice to the right of the plaintiffs to re-file their action should they decide to proceed.

Accordingly, it is

**ORDERED**

That the motion of Allstate Insurance Company to reconsider the order of remand entered on August 1, 2006, [16] is hereby **GRANTED**;

That the opinion [14] and order [15] of remand entered on August 1, 2006, are hereby **VACATED**; and

That in accordance with the terms of the order [13] entered by the United States Magistrate Judge on July 11, 2006, this action is hereby **DISMISSED WITHOUT PREJUDICE** to the right of the plaintiffs to re-file their action should they decide to proceed on the merits of their claims.

**SO ORDERED** this 2<sup>nd</sup> day of November, 2006.

s/ *L. T. Senter, Jr.*  
L. T. Senter, Jr.  
Senior Judge